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**CDBG****MANAGEMENT MEMORANDUM****Community Development Block Grant Program****Memorandum Number: 02-13****TO: CDBG eligible jurisdictions and interested parties****DATE: May 28, 2002****SUBJECT: Follow Up Information to the Lead Based Paint Training Held in January 2002.****Purpose of this memo:**

Recently, the HOME and CDBG Programs co-sponsored several Lead-Based Paint (LBP) trainings around the State to assist these programs in implementing the new Federal LBP regulations. As a result of these trainings, many questions were raised. This memo lists the questions and answers as well as provides additional guidance in implementing these regulations.

Several documents in the attachment should be used to replace pages in the CDBG Grant Management Manual. These are annotated as such. They include Housing Rehabilitation and Homebuyers Assistance checklists, the HCD notices and report forms, updated matrices, and monitoring checklists. It is hoped that this information will assist in the task of implementing the new LBP Federal regulations.

Contact:

For CDBG program LBP related questions, contact David Nelson at (916) 263-0476. For HOME LBP related question, contact Miguel Mejia at (916) 322-0643.

List of Attachments

CDBG: HIGHLIGHTS OF THE UPDATED GRANT MANAGEMENT MANUAL

Updated Q&A's	(page 20-14)
Lead-Based Paint Definitions	(page 20-16)
Housing Rehabilitation Matrix	(page 20-20)
Homebuyers Assistance Matrix	(page 20-21)
Presumption/Options	(page 20-22)
Housing Rehabilitation Checklist	(page 20-23)
Homebuyers Assistance Checklist	(page 20-24)
LBP Visual Assessment Report Form	(page 20-25)
Notice of LBP Presumption Form	(page 20-26)
Notice of LBP Risk Assessment Form	(page 20-27)
Notice of LBP Hazard Reduction Activity	(page 20-28)
Clearance Report Subsidy	(page 20-30)

Pages 20-18 through 20-32 should be renumbered 20-31 through 20-44

Lead-Based Paint Monitoring Sheets (replaces pages 12-78 through 12-80)

General Information

HUD's Guidance on refunds for Clearance examinations (page 20-30)

CHAPTER 20

LEAD BASED PAINT REQUIREMENTS

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1. INTRODUCTION

The purpose of this chapter is to provide information and guidelines on the Federal lead-based paint (LBP) regulations. The new regulations consolidate the existing federal LBP hazard regulations and are reorganized by the type of activity rather than by program funding source. Additional program related information is also located in Chapter 12 – Monitoring, Chapter 14 – Program Income, Chapter 16 – Housing Rehabilitation, and Chapter 17 -- Home Buyer Assistance.

HUD has issued these regulations to protect young children from LBP hazards in housing built prior to 1978 and is financially assisted or sold by the Federal government. For children six and under, lead poisoning can cause significant injury, including permanent brain damage, reduced intelligence, and behavioral problems. A large percentage of children with lead poisoning are in low-income families living in older homes with heavy concentrations of LBP.

Adults and older children may experience other health problems as a result of lead exposure. The most common source of lead exposure is dust from deteriorated LBP and lead contaminated soil. Due to increased understanding of the harmful effects of lead exposure on children and adults, Federal LBP requirements have become more stringent.

2. GRANTEE RESPONSIBILITIES

All CDBG grantees are required to follow the Federal LBP regulations as listed in 24 CFR 35 in implementing their activities. Essentially, grantees are responsible to inform residents of the potentials of LBP hazards in their home, evaluate the degree of LBP hazards, mitigate these LBP hazards (using the appropriate hazard reduction method), provide clearance that the LBP hazards have been appropriately mitigated, and provide all appropriate noticing of these steps.

3. EFFECTIVE DATE –CDBG STATE PROGRAM

There have recently been two phases of reform in the LBP hazard regulations. Regulations regarding “working safely” with lead took effect on November 15, 1999. The second phase occurred when HUD published new regulations streamlining all LBP hazard requirements for CDBG grants. CDBG grants with award letters dated on or after September 15, 2000 are subject to the new regulations; however, implementation was delayed until January 10, 2002. Grants with an award letter prior to September 15, 2000 are not subject to the LBP regulations, even if a subsequent grant is subject to LBP regulations. Once grantees have received an award after September 15, 2000 for an activity subject to the LBP regulations, then their program income fund is also subject to the LBP regulations.

Each set of regulations are in effect for houses and residences built prior to January 1, 1978 (As of January 1, 1978, LBP was banned nationwide for residential use). For the CDBG program, these new regulations largely apply to housing acquisition and rehabilitation of residences.

These new regulations may be found in Title 24, Part 35 of the Code of Federal Regulations (24 CFR 35). A copy of the regulations may be downloaded from the Internet at www.access.gpo.gov/nara/cfr/waisidx_01/24cfr35_01.html or obtained by mail from the National Lead Information Center at 1-800-424-Lead.

4. CRITICAL LAWS OR REGULATIONS PERTAINING TO LBP

If other Federal, State, tribal or local law, ordinance, code or regulation are applicable to the CDBG activity, the more protective definition shall apply. Following are critical state and federal laws and regulations pertaining to LBP hazards.

Federal

- 24 CFR Part 35 – Lead Based Paint Prevention in Certain Residential Structures (HUD)
- Toxic Substances Control Act Section 406 - Requirements of Hazard Education Before Renovation for Target Housing
- 40 CFR Part 745 – Identification of Dangerous Levels of Lead (EPA)

State

- Title 17 Sec. 35000 – Accreditation, Certification, and Work Practices for LBP and Lead Hazards (DHS)
- CalOSHA Title 8 Sec. 1532.1 – Construction Safety Orders – Lead
- CalOSHA Title 8 Sec. 5194 – Hazardous Communication
- Civil Code 1102-1102.16 –Real Estate Lead Hazard Disclosure Requirements (HUD also has its own disclosure requirements. See next section.)
- Proposition 65 – Safe Drinking Water and Toxic Enforcement Act of 1986

LOCAL

- Check with your city or county for applicable local codes.

5. SIGNIFICANT EXEMPTIONS (24 CFR 35.115)

HUD's LBP requirements do not apply to:

- Dwellings completed on or after 1/1/78,
- Housing exclusively for the elderly or person with disabilities, unless a child under age six resides (100 days or longer) or is expected to reside there,
- Zero bedroom dwellings, including efficiency apartments, single-room occupancy housing, dormitories, or military barracks,
- Housing found by certified inspection to be free of LBP,
- Housing in which all LBP has been properly identified, removed, and cleared (This does not apply where enclosure or encapsulation has been used as a method of abatement),
- Unoccupied reconstruction housing that will remain vacant until it is demolished to the foundation,
- Non-residential property: Property or part of a property that will not be used for human residential habitation. Not exempt are common use areas, such as entryways, hallways, corridors, passageways, stairways or building exterior in a mixed-use building.
- Rehabilitation that does not disturb a painted surface,
- Emergency repair action, which are those needed to safeguard against imminent danger to human life, health or safety, or to protect property from further structural damage, and
- Historical sites/dwellings may use interim controls instead of abatement, under certain conditions.

For a complete list of exemptions see 24 CFR Part 35.115, included in the Appendix VI-A of this chapter.

6. REHABILITATION

Requirements in the new regulations for rehabilitation activities are found in 24 CFR Part 35 Subpart J. Rehabilitation activities require lead hazard evaluation and reduction activities be carried out for all projects constructed prior to 1978. Sections 6 through 11 of this chapter pertain directly to CDBG rehabilitation.

7. WORKING SAFELY WITH LEAD (24 CFR 35.1350)

The new regulations establish *safe work* practices. While federal regulations allow an exemption if LBP hazards are below the minimum level, State regulations mandate safe work at all times in addressing LBP. The intent of work safe methods is to minimize the spread of leaded paint dust, paint chips, and debris. The following are the major provisions in the safe work practices regulations:

QUALIFICATIONS TO PERFORM SAFE WORK PRACTICES

Workers must be trained in Safe Work Practices. For additional information on this training, contact: <http://www.leadlisting.org/>.

Occupant Protection

The occupant and the environment must be protected from lead-contaminated or lead-containing materials during hazard reduction activities. The areas of concern are:

- No occupants at worksite: Occupants shall not be permitted to enter the worksite during hazard reduction activities until after hazard reduction work has been completed and clearance, if required, has been achieved.
- Protection of Occupants Belongings: The dwelling and worksite shall be secured against unauthorized entry, and occupants' belongings shall be protected from contamination during hazard reduction activities by relocating or covering and sealing them.
- Temporary Relocation: Occupants shall be temporarily relocated before and during hazard reduction activities to a suitable, decent, safe, and similarly accessible unit free of LBP hazards, except if:
 - ◇ Treatment will not disturb LBP, dust-lead hazards or soil lead hazards.
 - ◇ Interior: Treatment of the interior will be completed within one period in eight daytime hours, the site will be contained, and the work will not create other safety, health, or environmental hazards.
 - ◇ Building exterior: The windows, doors, ventilation intakes and other openings near the worksite are sealed during hazard control work and cleaned afterward; and a lead free entry is provided.
 - ◇ Treatment will be completed within five calendar days; the work area is sealed; the area within 10 feet of the containment area is cleared of debris at the end of the day; occupants have safe access to sleeping areas, bathroom, and kitchen facilities; and treatment does not create other safety, health, or environmental hazards.

Worksite Preparation and Containment

The worksite for lead hazard reduction activities must be prepared to prevent the release of leaded dust and debris.

- Workers must use practices that minimize the spread of leaded dust, paint chips, soil, and debris.
- Warning signs are required at each entry to a room where lead hazard reduction activities are conducted when occupants are present, at the main and secondary entryways to a building from which occupants have been relocated, and at exterior worksites at a size and type readable from 20 feet (six meters) from the edge of the worksite. Signs need to be in the occupants' primary language to the extent practicable.

Prohibited Methods:

The methods identified below may not be used at any time for work on surfaces known or suspected to contain LBP.

- Open flame burning or torching.
- Machine sanding or grinding without a high-efficiency particulate air (HEPA) local exhaust control.
- Abrasive blasting or sandblasting without HEPA local exhaust control.
- Heat guns operating above 1,100 degrees Fahrenheit, or those that operate high enough to char the paint.
- Dry sanding or dry scraping.
- Paint stripping in a poorly ventilated space using a volatile stripper that is a hazardous substance in accordance with regulations

Worksite Cleanup

Worksite cleanup removes dust and debris from the work area. Good cleanup is critical to passing clearance and leaving the unit safe for habitation. The worksite shall be cleaned using methods, products, and devices that are successful in cleaning lead-contaminated dust, such as vacuum cleaners with HEPA filters or equivalent equipment and household or lead specific detergents or equivalent products.

Safe Work Practice Exemptions

- Safe work practices are not required if paint has been tested and found to be lead-free.
- Safe work practices are not required in houses completed after 1978.

Visual Assessment

The results of the visual assessment should indicate that no deteriorated paint exists and there are no visible amounts of dust, debris, paint chips or other residues still present.

Clearance (24 CFR 35.1340)

Clearance is performed to determine whether the lead hazard reduction process is complete and that no lead-dust or soil hazards remain in the areas of concern. The clearance report requires DHS Form 8552. A clearance examination involves a visual assessment, dust, and soil testing to determine if the unit is safe for occupancy. A certified inspector/risk assessor must perform clearance.

Clearance Failure

If during the clearance examination deteriorated paint is present and/or visible amounts of dust, debris, paint chips, or other residue are still present, the clearance automatically fails. Lab samples should not be taken until the unit passes the visual examination. After failing the visual examination the areas which failed must be cleaned and another visual examination is performed.

Clearance Report

The clearance examiner must prepare a clearance report in accordance with (24 CFR Part 35.1340) if lead hazard reduction activities other than abatement are performed. If abatement is conducted, a certified supervisor or project designer must prepare an abatement report in accordance with 40 CFR 745.227(e)(10). The clearance notice must note each failed clearance.

8. LEAD HAZARD EVALUATION (24 CFR 35.110 and 35.1320)

Lead Hazard Evaluation methods involve an examination of a dwelling to check for lead hazards for every activity. Evaluation methods include risk assessments, lead hazard screenings, visual assessments, presumption of LBP, and paint testing. Only certified personnel may perform lead hazard evaluations. In California, the Department of Health Services certifies workers/supervisors/inspectors/risk assessors. Refer to the Department's website, www.dhs.ca.gov/childlead/ for more information. Below is a brief description of each evaluation method.

Risk Assessment

Risk Assessment is a comprehensive investigation of a dwelling to identify LBP hazards that includes paint testing, dust and soil sampling, and a visual evaluation. Risk assessment results are summarized in a written report with recommendations for actions. Risk assessments are conducted by inspectors/risk assessors certified by California's Program authorized by EPA, the Department of Health Services.

Lead Hazard Screening

Lead Hazard Screening is similar to a risk assessment. While the sampling is less extensive, the requirements are more stringent. If LBP hazards are detected, a full risk assessment must then be conducted. Lead hazard screens are conducted by certified risk assessors.

Visual Assessment

A Visual Assessment of deteriorated paint consists of a visual search for cracking, scaling, peeling, or chipped paint. A visual assessment does not require notification of lead hazard evaluation since the assessment does not evaluate lead-based paint and/or lead hazards. However, if hazards are discovered and addressed, the contractor must still meet the hazard reduction activity notification requirement. Visual assessments are conducted those who have taken the HUD online test at: http://www.hud.gov/offices/lead/training/section8housing/HUDSECTION8_VISUAL_CHAPTER5.PDF

Presumption

Presumption of LBP and/or LBP Hazards is an alternative to performing lead hazard evaluation activities. In some cases, by presuming LBP and/or LBP hazards, hazard evaluations may not be required, but contractors must still conduct lead hazard reduction activities as required.

Paint Testing

Paint Testing entails testing painted surfaces to determine if they contain LBP using methods such as an x-ray fluorescence (XRF) analyzer or laboratory analysis. Paint testing must be conducted by certified inspectors/risk assessors.

9. LEAD HAZARD REDUCTION METHODS (24 CFR 35.1330, 35.1325, and 35.1335)

Lead hazard reduction methods refer to specific types of treatment to address LBP hazards. Nothing precludes contractors from conducting additional lead hazard reduction methods beyond the minimum established for each activity. Lead hazard reduction methods include:

Interim Controls

Interim controls temporarily reduce exposure to LBP hazards through repairs, painting, maintenance, special cleaning, occupant protection measures, clearance, and education programs. A detailed description of interim controls are in 24 CFR 35.1330. Interim control methods include, but is not limited to:

- Paint stabilization. Repairing any physical defect in the substrate of a painted surface that is causing paint deterioration, removing loose paint and other material from the surface to be treated, and applying a new protective coating or paint.
- Treatment for friction and impact surfaces. If LBP is found and exceeds acceptable levels or is presumed, the conditions creating friction or impact with surfaces with LBP such as those that rub, bind, or crush must be corrected. Examples of this work include hanging/binding doors, installing doorstops, or reworking windows.
- Safe work practices: All interim controls shall incorporate the use of safe work practices.
- Treatment for chewable surfaces. If a child under age six has chewed surfaces known to contain LBP or if LBP is presumed, these surfaces must be enclosed or coated, so they are impenetrable.
- Lead-contaminated dust control. All horizontal surfaces that are rough, pitted, or porous such as bare floors, stairs, window sills, and window troughs must be covered with a smooth, cleanable covering or coating such as metal coil stock, plastic, polyurethane, or linoleum. Carpeting must be vacuumed, or rugs must be removed and vacuumed on both sides. Vacuuming must be done using HEPA vacuums.
- Lead-contaminated soil control. If soil is lead-contaminated, interim controls that may be used include impermanent surface coverings such as gravel, bark, and sod as well as land use controls such as fencing, landscaping, and warning signs.

Standard Treatments (24 CFT 35.1335)

Under certain conditions, if LBP is presumed, then the standard treatment method is triggered. Standard treatments apply to all applicable surfaces, including soil, to control LBP hazards that may be present.

These methods include:

- Paint Stabilization: All deteriorated paint on exterior and interior surfaces must be stabilized through repairs, safe paint removal, and repainting. Or abatement may be performed.
- Smooth and Cleanable Horizontal Surfaces: All horizontal surfaces that are rough, pitted, or porous such as bare floors, stairs, windowsills, and window troughs must be covered with a smooth, cleanable covering or coating such as metal coil stock, plastic, polyurethane, or linoleum.
- Correcting Dust-Generating Conditions: All conditions that generate lead-contaminated dust such as those that rub, bind, or crush surfaces with LBP must be corrected. Examples include re-hanging doors, installing doorstops, or reworking windows.
- Bare Residential Soil: Soil is addressed using interim control methods including impermanent surface covering such as gravel, bark, and sod as well as land use controls such as fencing, landscaping, and warning signs.
- Safe work practices: All standard treatments shall incorporate the use of safe work practices.
- Clearance: A clearance examination shall be performed at the conclusion of lead hazard reduction activities.

Qualifications: An individual performing standard treatments must meet the training and/or supervision requirements.

Abatement (24 CFR 35.1325)

Abatement permanently (for at least 20 years) removes lead based paint and LBP hazards by a variety of measures, including removing LBP and its dust, encapsulating or enclosing the LBP, replacing components

containing LBP, or removing or covering lead-contaminated soil. All abatement methods shall incorporate the use of safe work practices. Abatement shall then be conducted on all applicable surfaces, including soil, and completed when clearance is achieved.

Qualifications To Perform Lead Hazard Reduction

- Paint Stabilization, Interim Controls, and Standard Treatments require training that meets OSHA and/or Cal/OSHA requirements, and certification as workers or supervisors.
- Abatement must be conducted by certified workers and supervisors certified under California's Department of Health Services, as authorized by the EPA.

10. FEDERALLY REHABILITATION ASSISTANCE CATEGORIES (24 CFR 35.930)

Rehabilitation Projects Less Than Or Equal To \$5000

Rehabilitations of Residential property receiving an average of up to and including \$5,000 per unit in Rehabilitation Assistance are required to complete the following:

- Lead Hazard Evaluation. Paint testing must be conducted to identify lead based paint on all painted surfaces that will be disturbed or replaced.
 - ◊ The grantee may presume that LBP exists on all painted surfaces that will be disturbed or replaced and skip paint testing.
- Lead Hazard Reduction. Grantees must repair all paint that will be disturbed during rehabilitation. If LBP is detected or assumed, safe work practices must be used during rehabilitation.
- Noticing is required. See section 13.
- Clearance is required only for the work area.

Rehabilitation Projects: Over \$5,000 to \$25,000 Per Unit

- Performing a Lead Hazard Evaluation: There are two requirements for the Lead Hazard Evaluation:
 - ◊ Paint testing: Paint testing must be conducted to identify lead based paint on all painted surfaces that will be disturbed or replaced. *Interim controls are used* on LBP hazards.
 - ◊ Risk Assessment: A risk assessment must be conducted prior to rehabilitation to find LBP hazards in assisted units, in common areas that service those units, and on exterior surfaces.
 - ◊ There are four options in determining the hazards of LBP:
 - In lieu of paint testing, the grantee is permitted to presume that LBP hazards exist on all painted surfaces to be disturbed or replaced and *use interim controls*. A risk assessment is still required.
 - In lieu of paint testing, the grantee is permitted to presume that LBP hazards exist on all painted surfaces. The grantee must *perform standard treatments*. A risk assessment is not required.

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- When using interim controls, the grantee is permitted to conduct paint testing on all non-intact paint surfaces. If no LBP is detected, then no interim controls are required on that surface. A risk assessment is still required.
- The grantee is permitted to conduct a lead hazard screen instead of a risk assessment. If the lead hazard screen indicates that there is no lead contamination, no lead hazard reduction is required. If the lead hazard screen

indicates the presence of lead levels that exceed interior lead dust standards, then a risk assessment must be conducted.

- Lead Hazard Reduction: If LBP or LBP hazards are detected during the evaluations on interior surfaces in the dwelling units, and the common areas that service those units or on exterior surfaces to be disturbed by rehabilitation, interim controls must be implemented to reduce LBP hazards. See options above for exemptions.
- Notice is required: See Section 12.

Clearance: Clearance is required when lead hazard reduction activities are completed in the unit, common areas servicing the unit, and exterior surfaces where hazard reduction took place.

Rehabilitation Projects Over \$25,000 Per Unit

- There are two requirements for the Lead Hazard Evaluation:
 - ◇ Paint testing must be conducted to identify lead based paint on deteriorated painted surfaces or surfaces that will be disturbed or replaced.
 - ◇ A risk assessment must be conducted prior to rehabilitation to find LBP hazards in assisted units, in common areas that service those units, and on exterior surfaces, or grantees may assume that LBP hazards exist.
 - ◇ There are three options in the Lead Hazard Evaluation:
 - In lieu of paint testing, the grantee is permitted to presume that LBP hazards exist on all painted surfaces to be disturbed or replaced and abate these surfaces.
 - In lieu of paint testing, the grantee is permitted to assume that LBP or LBP hazards are present on all painted surfaces. Abatement is required on these surfaces. In such cases, evaluation is not required.
 - The grantee is permitted to conduct a lead hazard screen instead of conducting a risk assessment. If the lead hazard screen indicates that there is no lead contamination, no lead hazard reduction is required. If the lead hazard screen indicates that lead is present, then a risk assessment must be conducted.
- Lead Hazard Reduction.
 - ◇ If LBP hazards are detected during the evaluations on interior surfaces in the dwelling units and the common areas that service those units or on exterior surfaces, including soil, to be disturbed by rehabilitation, *abatement* must be completed to permanently reduce LBP hazards.
 - ◇ If LBP hazards are detected on the exterior surfaces that are not disturbed by rehabilitation during the risk assessment, *interim controls* may be completed instead of abatement to reduce these hazards.
- Noticing is required: See Section 12.
- Clearance is required when lead hazard reduction activities are completed in the unit, common areas servicing the unit, and exterior surfaces where hazard reduction took place.

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11. CALCULATING THE LEVEL OF FEDERAL REHABILITATION ASSISTANCE (24 CFR 35.930)

The lead hazard evaluation and reduction activities required for rehabilitation projects depend on the level of Federal Rehabilitation Assistance (FRA) projected for each project. The FRA breaks up into three categories:

- FRA of up to and including \$5,000 per unit,
- FRA of more than \$5,000 per unit, up to and including \$25,000,
- FRA of more than \$25,000 per unit.

The FRA is determined by comparing the per unit rehabilitation *hard costs* and the overall per unit *Federal Assistance*. The lower of these calculations is used as the FRA amount.

Hard Costs: Rehabilitation hard costs are calculated using the actual costs associated with the physical development of a unit, regardless of the source of these funds. These do not include soft costs, administration costs, relocation costs, environmental review costs, acquisition costs. Soft costs include financing fees, credit reports, title binders and insurance, recordation fees, transaction taxes, impact fees, legal and accounting fees, appraisals, and architectural and engineering fees.

Federal Assistance: Federal Assistance is determined by tabulating all Federal funds provided to the project for housing assistance. This also includes funds from program income, but excludes funding such as low-income housing tax credit funds (LIHTC) or non-Federal Home Program match funds which are not consider housing assistance.

Examples of Single Family Dwelling Calculations

Compare rehabilitation hard costs with Federal Assistance costs.

- The hard cost for rehabilitation of a single family home is \$6,000. The family received \$7,500. Of this amount, \$3,000 is from a nonprofit source, \$1,000 is owner contributions, and \$3,500 from the city's CDBG program. The soft costs are \$1,500. Since the FRA amount is \$3,500 (the lesser of \$3,500 and \$6,000), the project falls into the lowest category, rehabilitations up to \$5,000.
- The hard costs for rehabilitation of single family home is \$15,000. The family received \$18,000. Of this amount, \$13,000 are Federal funds, \$3,000 are private funds, and \$2,000 are nonprofit funds. The soft costs are \$3,000. In this case, the FRA is \$13,000, the lesser of \$13,000 and \$15,000, and this rehabilitation falls in the second category, rehabilitations over \$5,000 and less than \$25,000.

For determining which level is used in multiple family units to be rehabilitated, an average is used. See 24 CFR 35.915 and HUD's April 2001 Interpretive Guidance for specific details.

12. LEAD-BASED PAINT INTENT: ABATEMENT, REHABILITATION OR WEATHERIZATION?

Pursuant to a joint letter from HUD and EPA, dated April 19, 2002 (link to this letter found in Section 22, Supporting Materials), jurisdictions have an additional option when rehabilitating dwellings in which LBP may be present. This provision impacts dwellings below the \$25,000 Federal rehabilitation assistance category.

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If a jurisdiction's "intent" is to rehabilitate or weatherize a dwelling without mitigating any LBP hazards, then it is not required to perform interim controls in *the area to be rehabilitated*. *Intent* is shown in the work write up. If only rehabilitation aspects are included in the write up, then the *intent* is to rehabilitate and not mitigate LBP hazards. However, "work safe" practices must still be used. If LBP mitigation measures are included in the work write up, then the *intent* is to mitigate LBP hazards, and all usual mitigation rules apply.

13. NOTIFICATION (24 CFR 35.125)

Current Requirements

The current notification requirements are not affected by the new regulations. Notification is comprised of the pamphlet disclosure and two notices. It is required on all rehabilitation activities, regardless of the level of assistance.

- **Lead Hazard Information Pamphlet:** Contractors must provide to residents and purchasers of a residential property the EPA/HUD/Consumer Product Safety Commission Lead Hazard Information Pamphlet, "How to Protect your Family from Lead in Your Home." It is a good idea to have the recipient acknowledge receipt of this pamphlet in writing and retain this acknowledgment in the rehabilitation files.
- **Disclosure of LBP and Hazards:** The current disclosure regulations are not affected by the new regulations. Contractors need to ensure that property owners provide purchasers and lessees with available information or knowledge regarding the presence of LBP and hazards prior to selling or leasing a residence. In the contract or lease, sellers and lessors of pre-1978 housing must include disclosure and acknowledgement language and a warning statement about the dangers of LBP. Sellers must allow purchasers 10 days to inspect the dwelling for LBP or lead based paint hazards.

New Requirements

- **Notice of Lead Hazard Evaluation or Presumption:** When an evaluation results in findings of LBP hazards or if a presumption of LBP hazards is made, then contractors must provide to the residents or post notice no later than 15 days after this report has been received. These notices shall be posted for four weeks and contain at a minimum:
 - ◇ A summary of the nature, scope and results of the evaluation/presumption;
 - ◇ A contact name, address, and telephone number for more information,
 - ◇ Instructions to obtain access to the evaluation report, and
 - ◇ A date of notice
- **Notice of Lead Hazard Reduction Activity:** When lead hazard reduction activities have been completed (clearance has been achieved), a contractor must provide to the residents or post a notice of these lead hazard reduction activities no later than 15 days after completion. The notices shall be updated if additional work is required. Any failed clearances must be described in the notice. These notices shall be posted for four weeks and contain at a minimum:
 - ◇ A summary of the nature, scope and results (including clearance), of the hazard reduction activities,
 - ◇ A contact name, address and telephone number for more information, and

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- ◇ Available information on the location of any remaining LBP in the rooms, spaces or areas where hazard reduction activities were conducted, on a surface-by-surface basis.
- **Availability of Notices:** Notices of evaluation, presumption, and hazard reduction shall:
 - ◇ Be of a size and type easily read by occupants.
 - ◇ To the extent practicable, be made available upon request in a format accessible to persons with disabilities (e.g., Braille, large type, computer disk, audio tape).
 - ◇ Be provided in the occupants' primary language or in the language of the occupants' contract or lease.

- ◇ Be provided to the occupants by posting and maintaining it in centrally located common areas and distributing it to any dwelling unit, if necessary, because the head of household is a person with a known disability.
- ◇ Be distributing to each occupied dwelling affected by the evaluation. If the notice is for a lead hazard in a common area that is used by those in the dwelling unit, the occupants of the dwelling unit shall also receive notice.

• **STATE NOTICES: MAINTAIN A COPY OF THE NOTICES IN THE REHAB FILE.**

- California Department of Health Services requires the filing of the following forms under Title 17, California Code of Regulations
- Notification of Lead hazard Evaluation (DHS #8552). This is a requirement of a California certified Risk Assessor.
- Notification of Lead Hazard Abatement (DHS #8551). This is a requirement of the California certified Project Designer or Supervisor.

14. ACQUISITION, LEASING, SUPPORT SERVICES, AND OPERATION REQUIREMENTS. (24 CFR 35.1000)

The lead-based paint requirements for acquisition, leasing, support services or operations is found in 24 CFR Part 35, Subpart K.

Acquisition

These regulations are intended to provide assurances that the LBP paint in homes purchased with CDBG funds have been stabilized, and that the unit is “lead safe” when it is occupied by the assisted household. Acquisition (or leasing) of residential property is often done for the purpose of providing housing for people with special needs. For example, a housing provider may purchase a 12-unit building to provide transitional housing for the homeless or special needs housing for the disabled. A housing provider may also choose to lease a single-family home for use as a homeless shelter. If a housing acquisition program provides the potential homeowner with funds for rehabilitation activities, the regulations for Rehabilitation LBP hazards apply. See Sections 6 through 12. Some key requirements for LBP in Housing Acquisition, Leasing, Support Services, and Operation are:

- LBP Hazard Evaluation, Treatment, Clearance: The following is required to identify deteriorated paint in homes:
 - Visual Assessment. An inspection of all interior painted surfaces, including common areas such as hallways, laundry rooms or garages, and exterior surfaces of the building in which the dwelling unit is located must be conducted to identify deteriorated paint. Notification is only required if LBP hazards are identified.

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- Paint Stabilization. All deteriorated paint surfaces must be stabilized before the homebuyer moves into the home. If paint testing of a deteriorated surface reveals no LBP, then paint stabilization is not required on that surface.
- Safe Work Practices. The owner/contractor must use safe work practices when conducting paint stabilization. Safe work practices include safe work methods, occupant protection, worksite preparation, and cleanup.
- Clearance. After the completion of work, the home must pass clearance. Clearance must happen before occupancy if the home is vacant or immediately after receipt of Federal assistance for a home currently occupied.

- Ongoing Maintenance: Maintenance is not required in the CDBG Program.
- Costs. In order to provide maximum flexibility, the party responsible for paying for lead hazard evaluation and reduction in homebuyer programs depends upon program design and local requirements. Costs may be borne by the administering agency, the seller, the homebuyer, or a combination of the preceding.
- Notification: The notification process is the same as for rehabilitation activities.

Support Services and Operations

Support Services and Operations programs that assist in buying, renting, improving, operating or maintaining housing are covered by these regulations. Programs that provide services, such as medical care, education, or food service are not considered housing assistance and are not covered by the regulations. However, HUD recommends that efforts be made to assure that facilities providing these types of support services are lead-safe, if they are frequented by children less than 6 years of age.

Exemptions

If the housing assistance being provided is for less than 100 days, the assistance is exempt. For example, if a transitional housing unit that does not meet the definition of a zero-bedroom exemption, provides housing to several families for no more than 100 days, it is exempt from the provisions of Subpart K. The 100-day time limit applies to the dwelling, not the individuals or families.

15. MAINTENANCE AND RECORD KEEPING

MAINTENANCE

Maintenance is not required under the CDBG program.

RECORD KEEPING

Notices, evaluation, clearance and abatement reports must be kept at least three years and must be made available for Department review.

- Record Keeping: Records must be kept for at least three years, but it is recommended that lead-based paint records be kept indefinitely. The following records should be kept:
 - Information on age of property, age of children living at property, existing information on Children's blood lead levels, existing information on lead-based paint,
 - Inspection report or documentation of Visual Assessment,
 - Disclosure statement,
 - Clearance report,
 - All notifications,
 - Documentation of required certifications or training, and
 - Documentation indicating receipt of the pamphlet.

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16. COMMON PROBLEMS/QUESTIONS

- Q1. How does sweat equity come into play when a homeowner opts to paint the house as part of the rehabilitation? What is the homeowners responsibility in minimizing LBP hazards?

- A. The homeowner must receive training on and use work safe requirements, including containment, practices, and clearance. This training may consist of an approved video or review of appropriate HUD pamphlets. This training must be documented and retained in the rehabilitation file.
- Q2. Where do you access work safe trainers?
A. **VISIT WEBSITE ADDRESS IS: WWW.LEADLISTING.ORG TO SEE IF ANY TRAININGS ARE TO BE HELD IN CALIFORNIA. ALSO, CONTACT HUD'S LEAD BASED PAINT TRAINING SPECIALIST, RACHAEL RILEY AT (202) 755-1785 X 107 FOR TRAINING MATERIALS AND INFORMATION ON QUALIFICATIONS FOR WORK SAFE TRAINERS.**
- Q3. When is abatement required?
A. When the intent is to permanently eliminate the LBP hazard (abate), and when the FRA is over \$25,000.
- Q4. Are hairline cracks and nail holes considered deteriorated paint?
A. No, but in California, "work safe" procedures must, at a minimum, always be followed.
- Q5. When do you have to "work safe?"
A. Always.
- Q6. Do I always have to use certified workers, project monitors, supervisors, risk assessors, and inspectors?
A. All evaluations and clearances must be done by a certified person. Generally, in rehabilitations with an FRA under \$5,000, no certified persons are required. In rehabilitations with an FRA between \$5001 and \$25,000, a supervisor is required, and certified workers are optional. In rehabilitations over \$25,000, or when abatement is the intent, certified supervisors and workers are required. Reference the table in Section 17 for more details, or go to the Department of Health's Childhood Lead Poison Prevention Branch at: www.dhs.ca.gov/childlead/
- Q7. How can I get information on certified training?
A. Contact HUD at 1-800-424-LEAD or at their website at [http: www.hud.gov/lea](http://www.hud.gov/lea). You may also contact the CDBG program at (916) 445-6000.
- Q8. Do the LBP hazard regulations apply to public service activities?
A. Only to the extent that these services are considered housing assistance, e.g., housing operations assistance.
- Q9. Do LBP hazard regulations apply to mixed use activities?
A. Only for the residences and in common use areas served by residents, e.g., exterior areas, entryways, laundry rooms, hallways, etc.

Q10. IF A WINDOW AND FRAME PAINTED WITH LBP NEEDS TO BE REMOVED AS PART OF THE REHAB, IS THIS A REHAB OR LEAD HAZARD COST?

A. IF THE COMPONENT OF THE REHAB WOULD HAVE BEEN DONE REGARDLESS OF THE LBP, THEN IT IS CONSIDERED A REHAB COST.

Q11. CAN YOU DEVELOP A LBP “PUNCH LIST” TO USE IN OUR REHABILITATION PROGRAMS AND HOMEBUYERS’ ASSISTANCE?

A. Yes. See Section 17 for the CDBG and HOME Housing Rehabilitation and Homebuyers’ Assistance Programs checklists. Also see appropriate program monitoring checklists.

Q12. Is LBP an activity delivery or construction cost?

A. We're going to look at LBP evaluation/clearance costs the same as we do pest control inspections, i.e., you can count them as act. delivery, const costs and roll them into the loan, grant them, etc. LBP mitigation is a construction cost. These costs can either be grants or loans

Q13. We need a list of certified LBP contractors in our area.

A. Certified workers, supervisors, inspectors/risk assessors: www.dhs.ca.gov/childlead/html/B40.html

Q14. We need a list of those qualified to work safe (workers only) in our area.

A. www.leadlisting.org/leadlisting/leadlisting.nsf/RenovatorForViews?OpenForm&CA

Q15. I get lost in the LBP terminology. Can you provide a LBP glossary?

A. Yes. See Section 17, page 20-16.

Q16. Which certifications are required to address LBP hazards?

A. It depends upon which level of LBP mitigation is taken. See updated matrix in table of contents.

Q17. Where can we go to get certified testing?

A. See DHS website: www.dhs.ca.gov/childlead/pdfs/CertAppPacket.pdf

Q18. We need more funding to pay for certified contractor classes. Are any funds available?

A. Funding is being sought from HUD for additional certified training in several locations around the state. Currently, sites in the Central Valley, Sacramento, Marysville, Crescent City, and Susanville have been potentially identified as future training sites. Training is contingent upon HUD funding. For list of contractors providing certified training see: www.dhs.ca.gov/childlead/html/CRTcrse.html

Q19. In Homebuyers Assistance programs, are kids under 7 disallowed from program?

A. No. See a list of LBP exemptions in the CDBG GMM, page 20-3.

Q20. What about other Federal LBP rules?

A. The EPA Federal Regulations have been covered in Title 17, Section 35000 of the California Code of Regulations. OSHA's regulations are covered in the California Code of regulations, Title 8, Section 1532.1

Q21. Who fills out the forms and notices?

A. For DHS forms, the certified risk assessor/inspector fills out forms #8551 and #8552. For HCD forms, the jurisdiction representative may fill out the forms. Ensure to have the proper certified persons' contact information on the forms. The certified risk assessor/inspector may also fill out HCD forms.

Q22. Is there a maintenance or reevaluation requirement for CDBG/HOME project/programs?

A. Maintenance or re-evaluation requirements do not apply to CDBG projects/programs. However, maintenance requirements apply to HOME rental projects.

Q.23. The previous MRER form in the Grant Management Manual had a LBP section, but this year it's gone. Is there an environmental requirement for LBP now?

A. It was decided to remove the LBP section from the MRER. To replace this, use the new housing rehabilitation and housing acquisition checklists for each dwelling.

Q24. What certifications are required on tribal land?

A. EPA certification for LBP.

Q.25. Does a contractor, certified in another state, still have to take the California DHS certified test to work in State?

A. Yes. California does not recognize other states' certifications.

Q.26. If a city is to purchase a 4-plex and rehabilitate it, do the Housing Acquisition or Housing Rehabilitation LBP rules apply?

A. In cases of multiple coverage for LBP rules, use the most restrictive rules. In this case, the housing rehabilitation rules would apply.

Q. 27. How often is the DHS certified list updated?

A. Every 30-60 days as staff allows.

17. DEFINITIONS

LIST OF LEAD-BASED PAINT DEFINITIONS IN THE CDBG AND HOME PROGRAM

Abatement: Any set of measures designed to permanently eliminate lead-based paint or lead-based paint hazards (see definition of "permanent"). Abatement includes the removal of lead-based paint and dust-lead hazards, the permanent enclosure or encapsulation of lead-based paint, the replacement of components or fixtures painted with lead-based paint, and the removal or permanent covering of soil-lead hazards.

Bare soil: Soil or sand not covered by grass, sod, other live ground covers, wood chips, gravel, artificial turf, or similar covering.

Certified: DHS licensed or certified to perform such activities as risk assessment, lead-based paint inspection, or abatement supervision.

Chewable surface: An interior or exterior surface painted with lead-based paint that a young child can mouth or chew. A chewable surface is the same as an "accessible surface" as defined in 42 U.S.C. 4851b(2)). Hard metal substrates and other materials that cannot be dented by the bite of a young child are not considered chewable.

Clearance Examination: An activity conducted following lead-based paint hazard education activities to determine that the hazard reduction activities are complete and that no soil-lead hazards or settled dust-lead hazards exist in the dwelling unit or worksite.

Common Area: A portion of a residential property that is available for use by occupants of more than one dwelling unit. Such an area may include, but is not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, on-site day care facilities, garages and boundary fences.

Containment: The physical measures taken to ensure that dust and debris created or released during lead-based paint hazard reduction are not spread, blown or tracked from inside to outside of the worksite.

Deteriorated Paint: Any interior or exterior paint or other coating that is peeling, chipping, chalking or cracking, or any paint or coating located on an interior or exterior surface or fixture that is otherwise damaged or separated from the substrate.

Dwelling Unit: (1) Single-family dwelling, including attached structures such as porches and stoops; or (2) Housing unit in a structure that contains more than 1 separate housing unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the home or separate living quarters of 1 or more persons.

Encapsulation: The application of a covering or coating that acts as a barrier between the lead-based paint and the environment. Encapsulation may be used as a method of abatement if it is designed and performed so as to be permanent (see definition of "permanent").

Enclosure: The use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment. Enclosure may be used as a method of abatement if it is designed to be permanent (see definition of "permanent").

Evaluation: A risk assessment, a lead hazard screen, a lead-based paint inspection, paint testing, or a combination of these to determine the presence of lead-based paint hazards or lead-based paint.

Federal Assistance: The amount of federal funds received by a dwelling/project.

Federally Rehabilitation Assistance: The amount used to determine which rehabilitation category used to address LBP hazards. This figure is calculated by taking the lower of the total federal assistance in a dwelling and the total hard costs to rehab the dwelling.

Hazard reduction: Measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls or abatement or a combination of the two.

HEPA vacuum: A vacuum cleaner device with an included high-efficiency particulate air (HEPA) filter.

Housing for the elderly: Retirement communities or similar types of housing reserved for households composed of one or more persons 62 years of age or more, or other age if recognized as elderly by a specific Federal housing assistance program.

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Housing Receiving Federal Assistance: Housing which is covered by an application for HUD mortgage insurance, receives housing assistance payments under a program administered by HUD, or otherwise receives more than \$5,000 in project-based assistance under a Federal housing program administered by an agency other than HUD.

Impact Surface: An interior or exterior surface that is subject to damage by repeated sudden force, such as certain parts of door frames.

Interim Controls: A set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards. Interim controls include, but are not limited to, repairs, painting, temporary containment, specialized cleaning, clearance, ongoing lead-based paint maintenance activities, and the establishment and operation of management and resident education programs.

Lead-Based Paint: Paint or other surface coatings that contain lead equal to or exceeding 1.0 milligram per square centimeter or 0.5 percent by weight or 5,000 parts per million (ppm) by weight.

Lead-Based Paint Hazard: Any condition that causes exposure to lead from dust-lead hazards, soil-lead hazards, or lead-based paint that is deteriorated or present in chewable surfaces, friction surfaces, or impact surfaces, and that would result in adverse human health effects.

Lead-Based Paint Inspection: A surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation.

Lead Hazard Information Pamphlet: "How to Protect Your Child From Lead in Your Home." The HUD pamphlet used to notice a resident who is about to participate in a LBP activity.

Lead Hazard Reduction Activity: The activity chosen to address the existence of LBP and/or LBP hazards.

Lead Hazard Screen: A limited risk assessment activity that involves paint testing and dust sampling and analysis. If lead hazards are found, then a full risk assessment is required.

Multifamily property: A residential property containing five or more dwelling units.

Maintenance: The regular, ongoing follow up of a dwelling that has undergone LBP treatment. This pertains to rentals only. (See re-evaluation)

Noticing: Notifying the occupants (or potential occupants) of a dwelling of LBP related actions or history pertaining to that dwelling. This noticing may take the form of a pamphlet or posted notices regarding LBP hazards found, treated, and cleared in a dwelling.

Occupant: A person who inhabits a dwelling unit.

Owner: A person, firm, corporation, nonprofit organization, partnership, government, guardian, conservator, receiver, trustee, executor, or other judicial officer, or other entity which, alone or with others, owns, holds, or controls the freehold or leasehold title or part of the title to property, with or without actually possessing it.

Paint Stabilization: Repairing any physical defect in the substrate of a painted surface that is causing paint deterioration, removing loose paint and other material from the surface to be treated, and applying a new protective coating or paint.

Paint Testing: The process of determining, by a certified lead-based paint inspector or risk assessor, the presence or the absence of lead-based paint on deteriorated paint surfaces or painted surfaces to be disturbed or replaced.

Permanent: An expected design life of at least 20 years.

Play Area: An area of frequent soil contact by children of less than 6 years of age, as indicated by the presence of play equipment (e.g. sandboxes, swing sets, sliding boards, etc.) or toys or other children's possessions, observations of play patterns, or information provided by parents, residents or property owners.

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Presumption: An administrative decision to presume LBP is present. At times, this presumption may not require a risk assessment.

Reevaluation: A visual assessment of painted surfaces and limited dust and soil sampling conducted periodically following lead-based paint hazard reduction where lead-based paint is still present.

Residential Property: A dwelling unit, common areas, building exterior surfaces, and any surrounding land, including outbuildings, fences and play equipment affixed to the land, belonging to an owner and available for use by residents, but not including land used for agricultural, commercial, industrial or other non-residential purposes, and not including paint on the pavement of parking lots, garages, or roadways.

Risk Assessment: An on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards; and the provision of a report by the individual or firm conducting

the risk assessment explaining the results of the investigation and options for reducing lead-based paint hazards.

Risk Assessor/Inspector: This person performs risk assessments and clearance examinations.

This person must take and pass the 40 hour Risk Assessor/Inspector class. DHS registration AND testing is required. Significant education/previous related LBP experience is required.

Safe Work Practices: A system of working to remove LBP that minimizes spreading LBP dust and debris which would contaminate the workers and residents of a dwelling.

Single Family Property: A residential property containing one through four dwelling units.

Single Room Occupancy (SRO) Housing: Housing consisting of zero-bedroom dwelling units that may contain food preparation or sanitary facilities or both (see Zero-bedroom dwelling).

Soil-Lead Hazard: Bare soil on residential property that contains excessive amounts of lead.

Standard Treatments: A series of hazard reduction measures designed to reduce all lead-based paint hazards in a dwelling unit without the benefit of a risk assessment or other evaluation.

Substrate: The material directly beneath the painted surface out of which the components are constructed, including wood, drywall, plaster, concrete, brick or metal.

Supervisor: This person supervises certified and non-certified LBP workers. This person must have taken and passed the 40 hour LBP Supervisor class. DHS registration AND testing is required. Previous related LBP experience is required.

Visual Assessment: Looking for deteriorated paint, visible surface dust, debris and residue which may be a part of a risk assessment or clearance examination. A person must have taken the HUD VA test on the web.

http://www.hud.gov/offices/lead/training/section8housing/HUDSECTION8_VISUAL_CHAPTER5.PDF

Worker: There are two types of workers, certified and non-certified.

Certified: A person who has taken the 24 hour certified LBP certified worker class. While no DHS test is required, DHS registration is required. This person may work on any LBP project, but only under supervision. No previous LBP work experience is required.

Non Certified: A person who has taken the 8 hour “Work Safe” class. This worker may not work on abatement projects. No previous LBP work experience is required.

Zero-Bedroom Dwelling: Any residential dwelling in which the living areas are not separated from the sleeping area. The term includes efficiencies, studio apartments, dormitory or single room occupancy housing, military barracks, and rentals of individual rooms in residential dwellings (see Single room occupancy (SRO)).

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18. MATRICES AND CHECKLISTS

CDBG Lead-Based Paint Housing Rehabilitation Matrix

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CDBG Lead-Based Paint Homebuyers Assistance Matrix

			Rehabilitation		
			0 → \$5,000	\$5,001 → \$25,000	\$25,001+
Approach to LBP Hazards			Do no harm	Identify and control lead hazards	Identify and abate lead hazards
Lead Type			Homebuyers Assistance		
Approach to LBP Hazards			-Paint Testing on surfaces affected by rehab.	-Visual Assessment (VA) only to determine deteriorated paint mitigation method	-Visual Assessment (VA) only to determine mitigation method
Lead Hazard Evaluation			-Visual Assessment only to determine mitigation method	-Paint Testing on surfaces affected by rehab. -Risk assessment (RA)	-Paint Testing on all surfaces affected by rehab. -Risk assessment
Level of			-VA: HUD Online test	-VA: HUD Online test	-VA: HUD Online test
Certification Required			-Paint Testing: Cert. RA/Inspector HUD Online RA/Inspector	-Paint Testing: Cert. RA/Inspector http://www.hud.gov/lead/training/visualassessment/100100.htm	-Paint Testing: Cert. RA/Inspector
Notification			-Pamphlet -Evaluation -Presumption (opt.) -DHS Form 8551	-Pamphlet -Evaluation -Presumption (opt.) -DHS Form 8551	-Pamphlet -Evaluation -Presumption (opt.) -DHS Form 8551
			-Hazard Reduction	-Hazard Reduction	-Hazard Reduction
Reports			-VA: Report -Paint Testing -DHS Form 8552 -Clearance	-VA Report -Painting Testing -Risk Assessment -DHS Form 8552 -Clearance	-VA Report -Paint Testing -Risk Assessment -DHS Form 8552 -Clearance
Lead Hazard Reduction			Safe work practices	Interim Controls	-Interior/Exterior paint disturbed by HR: Abatement -Exterior paint not disturbed by HR: Interim Controls
Certification Required			None, but must work safe	Optional, but at a minimum, must work safe.	Int/Ext: Required
					Ext. w/Interim: Optional, but a minimum, must work safe
			None, but must work safe	Required	Int./Ext.: Required
					Ext. w/Interim: Required
Clearance			Certified Risk Assessor or Project Monitor on all clearances		

<u>Notification</u>	<ul style="list-style-type: none"> -Pamphlet -Disclosure -Hazard Reduction
Reports	<ul style="list-style-type: none"> -Visual Assessment -DHS Form 8552 -Clearance

Lead Hazard Reduction	Type		Paint Stabilization of each deteriorated paint surface.
	Certification Required	Worker	Optional, but must work safe
		Supervisor	Required
Clearance Required			Certified Risk Assessor or Project Monitor on all clearances

By Federal Rehabilitation Assistance Category

\$0-\$5000	In lieu of paint testing on surfaces to be disturbed by the rehabilitation, presume LBP on all surfaces affected by rehabilitation. No RA is required. Use safe work practices.
Over \$5,000 to \$25,000	In lieu of paint testing on surfaces to be disturbed by the rehabilitation, presume LBP on all surfaces affected by rehabilitation. RA is required. Use interim controls on hazards revealed by the RA or created by the rehabilitation.
Over \$25,000	In lieu of paint testing on surfaces to be disturbed by the rehabilitation, presume LBP on all surfaces affected by rehabilitation. RA is required. Abate all hazards revealed by the RA or created by the rehabilitation. On external areas not disturbed by the rehabilitation, may use interim controls.

By Evaluation Type

Lead Hazard Screen	When RA are required, may use this abbreviated version, lead hazard screen. If LBP hazards are found, then full RA is required.
Paint Testing	When paint stabilization or interim controls, may opt to do paint testing on all surfaces with non intact paint. If no LBP then stabilization/interim controls not required.

By Mitigation Method

Interim Controls	When interim controls are required, may presume LBP or LBP hazards exist throughout property and then enact standard treatments on hazards. No RA is required.
Abatement	When abatement is required, may presume that LBP or LBP hazards are present throughout, then abate hazards. No RA is required.

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CDBG LBP Checklist for Rehabilitation

Name of Applicant _____

Date _____

Address of House _____

1. If the house was completed prior to 1/1/78, go on to #2. If the house was completed on or after 1/1/78, **STOP**, you are done w/your LBP. Provide proof of age. Use certificate of insurance, final sign off, or occupancy date.
2. Does the dwelling meet any of the exemptions listed in chapter 20 of the Grant Management Manual? If so, **STOP**, you are done w/your LBP requirements. List exemption here: _____. If not, proceed to #3.
3. Provide "How to Protect Your Family From Lead" pamphlet to recipients/occupant. Obtain and retain signed receipt from recipients/occupants stating that pamphlet was received. (See pg.31 for web links.)
4. Obtain work write up and do LBP visual assessment. Retain copy of visual assessment report. Use this report to determine if a presumption strategy is beneficial for this dwelling. If presuming LBP, then obtain and retain a copy of the presumption notice. Presumption options used and where: _____
—
5. Determine if risk assessment (RA) is needed. If so, then:
 - Obtain and retain copy of Lead Hazard Screen (LHS), if applicable. If LHS results are negative for LBP, then perform the HUD and DHS noticing requirements (DHS form 8552) and begin the rehab w/o LBP concerns. If the LHS results are positive for LBP, then perform an RA.
 - Procure DHS certified LBP risk assessor/inspector for risk assessment and clearance.
 - Obtain and retain copy of risk assessor's certification.
 - Obtain and retain copy of RA.
1. Obtain and retain copy of evaluation notice.
2. Obtain and retain copy of DHS form #8552, Lead Hazard Evaluation Report.
3. Obtain and retain copies of paint testing results.
4. Obtain and retain copy of DHS Abatement Notice (DHS form #8551).
5. Determine which LBP methods to use. **Methods used where:**

6. LBP costs were paid using a: grant, loan, part grant/loan (circle one).
7. Procure the DHS certified LBP contractor for hazard mitigation.
8. Obtain and retain copy of LBP certification for supervisor and all workers (including homeowners using sweat equity). (This should include any safe work course if using safe work practices.) Certified training is suitable substitute for safe work course.
9. Obtain and retain copy of proof of passing safe work practices course for any sweat equity workers.
10. Obtain and retain copy of Hazard Reduction Notice (should match LBP mitigation method selected).
11. Obtain and retain copy of Clearance Report to be filled out by certified risk assessor/inspector.

CDBG LBP Checklist for Homebuyers Assistance

Name of Applicant _____

Date _____

Address of House _____

1. If the house was completed prior to 1/1/78, go on to #2. If the house was completed on or after 1/1/78, **STOP**, you are done w/your LBP. Provide proof of age. Use certificate of insurance, final sign off, or occupancy date.
2. Does the dwelling meet any of the exemptions listed in chapter 20 of the Grant Management Manual? If so, **STOP**, you are done w/your LBP requirements. List exemption here: _____. If not, proceed to #3.
3. Prior to making an offer, obtain and retain a copy of the Lead Disclosure Notice that seller provides. This disclosure addresses any known LBP and/or LBP hazards in the house and any records pertaining to LBP mitigation. It will also state that the purchaser has 10 days to perform a LBP inspection, or that purchaser has waived that right.
4. If agent is involved, obtain and retain a copy of the LBP disclosure from the seller to the agent.
5. Provide "How to Protect Your Family From Lead" pamphlet to recipients. Obtain and retain signed receipt from recipients/occupants stating that pamphlet was received
6. Obtain work write up, if necessary, and do LBP visual assessment. Retain copy of visual assessment report.
7. Determine who will pay for LBP paint stabilization. If CDBG jurisdiction, go to #8. If seller pays, go to #16.
8. LBP costs were paid using a: grant, loan, part grant/loan (circle all that apply)
9. Procure DHS certified LBP contractor for paint stabilization and clearance.
10. Obtain and retain copy of DHS Abatement Notice, DHS form #8552, to be filled out by DHS certified LBP contractor.
11. Obtain and retain copy of LBP certification for supervisor and all workers. (This should include any safe work course if using safe work practices.) Certified training is suitable substitute for safe work course.
12. Obtain and retain copy of proof of passing safe work practices course for any sweat equity workers
13. Obtain and retain copy of Hazard Reduction Notice to be filled out by LBP certified contractor.
14. Procure RA for clearance evaluation.
15. Obtain and retain copy of Clearance Report to be filled out by certified risk assessor/inspector.
16. Do visual assessment to ensure work was done and no additional paint is deteriorated. If further work is required, redo process.

Sample Visual Assessment Report

Lead-Based Paint Visual Assessment Report	
Date of Report: _____	
Address/location of property or structure(s) this summary notice applies to: _____	
Lead-based paint inspection description: _____	
Date(s) of inspection: _____	
Summary where deteriorated paint was found. List at least the housing unit numbers and common areas (for multifamily housing), and building components (including type of room or space, and the material underneath the paint):	
Contact person for more information about the inspection:	
Printed name: _____	
Organization: _____	
Street and city: _____	
State: _____	ZIP: _____ Phone number: _____ (_____) _____
Person who prepared this summary notice:	
Printed name: _____	
Signature: _____	Date: _____
Organization: _____	
Street and city: _____	
State: _____	ZIP: _____ Phone number: _____ (_____) _____

SAMPLE RISK ASSESSMENT NOTICE

Notice of Lead-Based Paint Risk Assessment		
<u>Date of Notice</u>		
Address/location of property or structure(s) this summary notice applies to:		
Lead-based paint inspection:	Risk Assessment <input type="checkbox"/>	Lead Hazard Screen <input type="checkbox"/>
Date(s) of risk assessment/screen:		
Lead-based paint hazards were found.	Yes: <input type="checkbox"/>	No: <input type="checkbox"/>
Summary of types and locations of lead-based paint hazards. List at least the housing unit numbers and common areas (for multifamily housing), bare soil locations, dust-lead locations, and or building components (including type of room or space, and the material underneath the paint), and types of lead-based paint hazards:		
Contact person for more information about this risk assessment/screen:		
Printed name: _____		
Organization: _____		
Street and city: _____		
State: _____	ZIP: _____	Phone number: _____
(_____) _____		
Person who prepared this notice:		
Printed name: _____		
Signature: _____		Date: _____
Organization: _____		
Street and city: _____		
State: _____	ZIP: _____	Phone number: (_____) _____

Notice of Lead-Based Paint Hazard Reduction Activity

Address/location of property or structure(s) this summary notice applies to:

Initial Hazard Reduction Activity Notice?

Yes: ☐

No: ☐

Start and completion

date(s):

If no, dates of previous Hazard Reduction Activity Notices:

Activity locations and types. List at least the housing unit numbers and common areas (for multifamily housing), bare soil locations, dust-lead locations, and or building components (including type of room or space, and the material underneath the paint), and types of lead-based paint hazard reduction activities performed at the locations listed:

Initial clearance? Yes: ☐ No: ☐ If no, provide dates of previous clearances:

Date(s) of clearance testing and/or soil analyses:

Locations of building components with lead-based paint remaining in the rooms, spaces or areas where activities were conducted:

Contact person for more information about the hazard reduction activity:

Printed name:

Organization:

Street and city:

State:

ZIP:

Phone number:

()

Person who prepared this summary notice:

Printed name:

Signature:

Date:

Organization:

Street and city:

State:

ZIP:

Phone number:)

(

20. REFERENCES

- Federal Register, 24 CFR Part 35, et. al. Final Rule
- HUD's lead website at www.hud.gov/offices/lead/,
- Lead Listing's website at www.leadlisting.org, and
- HUD's April 2001 Interpretive Guidance: The HUD Regulation on Controlling LBP Hazards in Housing Receiving Federal Assistance and Federally Owned Housing Being Sold regulations www.hud.gov/utilities/intercept.cfm?/lea/1012qa_2001.pdf)

21. DEPARTMENTS ROLE

The Department's CDBG staff will review the grantee and contractor's compliance with the Federal LBP regulations. At least one monitoring of the grantee's program will be completed during the life of the grant. In addition to the monitoring, staff will be available to assist in solving any program problems as they occur.

VII. 22. SUPPORTING MATERIALS

VIII. type	IX. Document	X. Source
XI. or ms	XII. Lead Hazard Evaluation Report DHS form 8552	XIII. http://www.dhs.ca.gov/childlead/html/GENregs.html#Title%2017
XIV.	XV. Abatement of Lead Hazards Notification, DHS form 8551	XVI. http://www.dhs.ca.gov/childlead/html/GENregs.html#Title%2017
XVII.	XVIII. Lessor's Disclosure Information on LBP	XIX. Federal Register Vol. 61.No.45, 3/6/96
XX.	XXI. Summary Notice of LBP Risk Assessment	XXII. Federal Register, Vol. 64, No. 178, 9/15/99, Rules and Regulations, pg. 50231
XXIII.	XXIV. Notice that LBP or LBP Hazards are Presumed to be Present	XXV. Federal Register, Vol. 64, No. 178, 9/15/99, Rules and Regulations, pg. 50231
XXVI.	XXVII. Summary Notice of Completion of LBP Hazard Reduction Activity	XXVIII. Federal Register, Vol. 64, No. 178, 9/15/99, Rules and Regulations, pg. 50231
XXIX. ead Pro fes sio nal s	XXX. Index of lead Certified Professionals in California	XXXI. www.dhs.ca.gov/childlead/html/B40.html
XXXII. am phl ets (co ver onl y)	XXXIII. Protect Your Family From Lead in Your Home	XXXIV. www.hud.gov/offices/lead
XXXV.	XXXVI. Reducing Lead Hazards When Remodeling Your Home	XXXVII. www.epa.gov/opptintr/lead/leadpbed.htm
XXXV.	XXXIX. Lead in Your Home: A Parent's Reference Guide	XL. www.epa.gov/opptintr/lead/leadpbed.htm
XLI.	XLII. Lead Paint Safety: A Field Guide for Painting, Home Maintenance, and Renovation Work	XLIII. www.hud.gov/nea/LBPguide.pdf
XLIV. act Sh eet	XLV. Federal Requirements for Volunteer Paint and Rehabilitation Programs (March 2000 Fact Sheet)	XLVI. http://www.hud.gov/lea/FSVPrograms.doc
XLVII.	XLVIII. HUD 4/19/01 LBP Intent Letter	XLIX. http://www.hud.gov/utilities/intercept.cfm?/lea/EPA_HUDabateme ntletter.pdf
L. egu lati ons	LI. 24 CFR 35	LII. http://www.access.gpo.gov/nara/cfr/waisidx_01/24cfr35_01.html
LIII.	LIV. Interpretive Guidance: 24 CFR 35 -4/16/01-Table of Contents only	LV. http://www.hud.gov/offices/lead

LVI. ubs ide s	LVII. Clearance Report Subsidies	LVIII. http://www.hud.gov/news/release.cfm?content=pr02-022.cfm
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Department of Housing and Community Development
Community Development Block Grant Program (CDBG)

GRANTEE MONITORING:
12. Lead Base Paint

Grantee: _____ Contract #: _____

CDBG Rep: _____ Date(s): _____

1. Residences Assisted:

# Of Pre-1978 Dwellings:	# Of Post 1978 Dwellings:	
# Evaluations:	# Presumed LBP:	# Exempt:

LBP Implementation:

Y N 1. How are recipients informed of lead-based paint dangers?

2. How are LBP Hazard costs covered? (Grant, Loan, Combination , tax assessments).
Explain:

Y N 3. Does the grantee use the option to presume LBP that exists? If yes, what criteria do they use to choose this option (e.g. other houses on street test positive for LBP, house built prior to 1950)?

Procurement:

- Y N 1. Does the Grantee or their Program Operator complete LBP Evaluations? If no, please explain method of procurement for the LBP Evaluations (procured by Homeowner, procured by program operator, for each house or for period of time, is a contractor list established?)
- Y N 2. Is the LBP reduction work completed by a separate contractor other than the rehabilitation contractor? If no, explain process for verifying appropriate training/certification?

If yes, explain procurement process:

File Review:

1. Review a minimum of four randomly selected loan files; these may be the same as completed for you rehabilitation or acquisition monitoring section. Use the following forms to summarize the basic information, and make additional notes as needed.

Review each loan/grant file for the following items:

CDBG Concerns: (unless in violation of grantees guidelines)		1		2		3		4	
		Y	N	Y	N	Y	N	Y	N
Name of Loan Applicant:									
A.	Was the residence completed on or after 1/1/78; If yes , stop here. Check for proof of this date.								
B.	LBP Pamphlet ("How to Protect Your Family From Lead")								
C.	Housing Rehabilitation or Housing Acquisition Checklists								
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C. Notices	HUD Evaluation								

CDBG Concerns: (unless in violation of grantees guidelines)		1		2		3		4	
Name of Loan Applicant:		Y	N	Y	N	Y	N	Y	N
	Visual Assessment (Housing Acquisition Only)								
	HUD Presumption (when applicable)								
	Abatement (DHS form #8551)								
	HUD Hazard Reduction Activity								
	Disclosure (Housing Acquisition Only)								
D. Reports	Visual Assessment								
	Risk Assessment (when applicable)								
	Lead Hazard Screen (when applicable)								
	DHS form #8552 (Lead Hazard Evaluation Report)								
	Paint Testing (when applicable)								
	HUD Clearance Report								
E. Documentation of Training	Safe Work Practices (sweat equity recipients)								
	Visual Assessment training (Acquisition only)								
F. Documentation of Certification	Risk Assessor/Inspector (for evaluations)								
	Supervisor								
	Worker (if required)								
	Work Safe documentation								
	Risk Assessor/Inspector/Project Monitor (for clearance)								